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TO:

Name: Group Art Unit 3764
Examiner Michael Brown

Firm: U.S. Patent & Trademark Office

Fax No.: 703-872-9306

Subject: U.S. Patent Application No. 09/605,001

Gary Karlin Michelson

Filed: June 27, 2000

APPARATUS AND METHOD OF INSERTING
SPINAL IMPLANTS

Attorney Docket No. 101.0044-04000

Customer No. 22882

Confirmation No.: 5171

FROM:

Name: Thomas H. Martin, Esq.

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No. of Pages (including this): 2

Date: October 18, 2004

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PATENT
Attorney Docket No. 101.0044-04000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 5171
Gary Karlin Michelson)
Serial No.: 09/605,001) Group Art Unit: 3764
Filed: June 27, 2000) Examiner: M. Brown
For: APPARATUS AND METHOD OF)
INSERTING SPINAL IMPLANTS)

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Commissioner for Patents
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Alexandria, VA 22313-1450

Sir:

COMMUNICATION

On July 3, 2001, Applicant added claims 105-129 to the present application and requested an interference under 37 C.F.R. § 1.607 with claims 1-3 and 5-26 of U.S. Patent No. 6,083,225 issued to Winslow et al. On September 22, 2004, the Office mailed a Notice of Allowance allowing claims 105-129. Accordingly, Applicant submits that claims 105-129 are *prima facie* in condition for interference.

Applicant respectfully brings to the attention of the Office that the present application must be withdrawn from issue under 37 C.F.R. § 1.313(a) so that interference proceedings may be initiated. According to MPEP § 1308(II), the director may withdraw an application on his or her own initiative. The procedure outlined in MPEP § 1308(II)(1)(A) to (D) is applicable to the present situation as step (D) specifically mentions withdrawing an application from issue to "initiate interference proceedings."

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: October 18, 2004

By: Thomas H. Martin
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